

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL  
No. 367

Session of  
2011

INTRODUCED BY D. WHITE, BROWNE, TOMLINSON, WAUGH, M. WHITE,  
WOZNIAK, EARLL, GREENLEAF AND SCARNATI, FEBRUARY 1, 2011

AMENDMENTS TO HOUSE AMENDMENTS, IN SENATE, JUNE 29, 2012

AN ACT

1 Providing for ~~certain~~ INDIGENOUS MINERAL resource development;  
2 and imposing powers and duties on the Department of General  
3 Services and the State System of Higher Education. ←

4 The General Assembly of the Commonwealth of Pennsylvania

5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the INDIGENOUS ←

8 MINERAL Resources Development Act. ←

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall  
11 have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Department." The Department of General Services of the  
14 Commonwealth.

15 "Right-of-way." Includes:

16 (1) a right of passage and haulage for a lawful purpose;  
17 (2) a right of flowage or transmission for a lawful  
18 purpose; or

(3) the construction, operation and maintenance of infrastructure necessary to facilitate a lawful purpose.

"State-owned land." Land owned by the Commonwealth. The term does not include State system land or land owned and administered by the Department of Conservation and Natural Resources, the Pennsylvania Fish and Boat Commission or the Pennsylvania Game Commission.

"State system land." Land owned by the State System of Higher Education or controlled by the State System of Higher Education pursuant to a memorandum of understanding approved by the Department of General Services.

"System." The State System of Higher Education of the Commonwealth.

### Section 3. Development of resources on State-owned land.

(a) Authority.--The department has the following powers:

(1) To make and execute contracts or leases in the name of the Commonwealth for the mining or removal of valuable coal, oil, natural gas, coal bed methane and limestone which may be found in or beneath State-owned land and to convey Commonwealth rights to coal, oil, natural gas, coal bed methane and limestone.

(2) To grant a right-of-way through State-owned land to any individual or corporation that applies if the department determines that the grant will not so adversely affect the land as to interfere with its usual and orderly administration.

(3) To cooperate with, consult with or delegate to the Department of Conservation and Natural Resources, pursuant to its authority in the act of June 28, 1995 (P.L.89, No.18), known as the Conservation and Natural Resources Act, in

1 carrying out the provisions of this act.

2 (b) Advertising.--

3 (1) A proposed contract, lease or conveyance of coal,  
4 oil, natural gas, coal bed methane and limestone exceeding  
5 \$1,000 in value must be advertised once a week for three  
6 weeks, in at least two newspapers of general circulation  
7 published nearest the locality indicated, in advance of  
8 awarding the contract or lease.

9 (2) If the proposed conveyance is included in the  
10 proposed conveyance of the real property to which it is  
11 attached, the department shall comply with the advertising  
12 requirements for the conveyance of the real property.

13 (c) Bidding.--

14 (1) Except as set forth in paragraphs (2) and (3),  
15 contracts, leases and conveyances shall be awarded to the  
16 highest and best bidder. If title to the property has already  
17 been conveyed, but the Commonwealth has reserved the right to  
18 coal, oil, natural gas, coal bed methane or limestone, the  
19 Commonwealth may convey the resources to the owner of the fee  
20 without bidding.

21 (2) The requirement for competitive bidding may be  
22 waived if the Commonwealth owns a fractional interest in the  
23 coal, oil, natural gas, coal bed methane or limestone in or  
24 beneath State-owned land; and the department may enter into a  
25 contract to lease that fractional interest, with the approval  
26 of the Governor and upon terms and conditions the department  
27 deems to be in the best interest of the Commonwealth.

28 (3) If a proposed conveyance under this section is  
29 included in the proposed conveyance of the real property to  
30 which it is attached, the award shall be made to the selected

1 buyer of the real property.

2 (d) Bond.--A party that enters into a contract or lease  
3 under this section must provide a bond satisfactory to the  
4 department for the proper performance of the contract or lease.

5 Section 4. Development of resources on State system land.

6 (a) Authority.--The department has the following powers:

7 (1) To make and execute contracts or leases in the name  
8 of the Commonwealth for the mining or removal of valuable  
9 coal, oil, natural gas, coal bed methane and limestone which  
10 may be found in or beneath State system land.

11 (2) To grant a right-of-way through State system land to  
12 any individual or corporation that applies if the system  
13 determines that the grant will not so adversely affect the  
14 land as to interfere with its usual and orderly  
15 administration.

16 (3) To cooperate with, consult with or delegate to the  
17 Department of Conservation and Natural Resources, pursuant to  
18 its authority in the act of June 28, 1995 (P.L.89, No.18),  
19 known as the Conservation and Natural Resources Act, in  
20 carrying out the provisions of this act.

21 (a.1) Limitations.--The department may not make or execute a  
22 contract or lease under subsection (a) (1) unless the president  
23 of the system university affected by the contract or lease has  
24 provided the department with written authorization to proceed  
25 with negotiating a contract or lease.

26 (b) Advertising.--A proposed contract or lease under this  
27 act that exceeds \$1,000 in value must be advertised for three  
28 weeks on the system's publicly accessible Internet website and  
29 at least once a week for three weeks, in at least two newspapers  
30 of general circulation published nearest the locality indicated,

1 in advance of awarding the contract or lease.

2 (c) Bidding.--

3 (1) Except as set forth in paragraph (2), contracts and  
4 leases shall be awarded to the highest and best bidder.

5 (2) The requirement for competitive bidding may be  
6 waived if the Commonwealth owns a fractional interest in the  
7 mineral resources in or beneath State system land and the  
8 department may enter into a contract to lease that fractional  
9 interest, with the approval of the Governor and upon terms  
10 and conditions the department deems to be in the best  
11 interest of the Commonwealth.

12 (d) Bond.--A party that enters into a contract or lease  
13 under this section must provide a bond satisfactory to the  
14 department for the proper performance of the contract or lease.

15 Section 5. Deposit of revenue.

16 (a) Payments derived from State-owned land.--Notwithstanding  
17 section 1 of the act of December 15, 1955 (P.L.865, No.256),  
18 entitled "An act requiring rents and royalties from oil and gas  
19 leases of Commonwealth land to be placed in a special fund to be  
20 used for conservation, recreation, dams, and flood control;  
21 authorizing the Secretary of Forests and Waters to determine the  
22 need for and location of such projects and to acquire the  
23 necessary land," all payments or royalties received by the  
24 department pursuant to a contract or lease under section 3 in  
25 fiscal year 2011-2012 and every year thereafter shall be  
26 deposited as follows:

27 (1) ~~Twenty percent of the payments or royalties shall be~~ ←  
28 ~~retained by the State agency where the coal, oil, natural~~  
29 ~~gas, coal bed methane or limestone is leased or extracted.~~

30 (2) ~~All remaining payments or royalties shall be~~

deposited into the Oil and Gas Lease Fund.

(1) SIXTY PERCENT OF PAYMENTS OR ROYALTIES RECEIVED BY THE DEPARTMENT SHALL BE DEPOSITED IN THE OIL AND GAS LEASE FUND.

(2) TWENTY-FIVE PERCENT OF PAYMENTS OR ROYALTIES RECEIVED BY THE DEPARTMENT SHALL BE ALLOCATED TO THE PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY ESTABLISHED UNDER THE ACT OF MARCH 1, 1988 (P.L.82, NO.16), KNOWN AS THE PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY ACT. THE AUTHORITY MAY USE THESE FUNDS TO PROVIDE GRANTS FOR NONPOINT SOURCE BEST MANAGEMENT PRACTICES TO IMPLEMENT THE CHESAPEAKE BAY WATERSHED IMPLEMENTATION PLAN AND TOTAL MAXIMUM DAILY LOAD PLAN IMPLEMENTATION STATEWIDE, IN ADDITION TO THE AUTHORITY'S OTHER PERMITTED USES.

(3) FIFTEEN PERCENT OF PAYMENTS OR ROYALTIES RECEIVED BY THE DEPARTMENT SHALL BE RETAINED BY THE STATE AGENCY WHERE THE COAL, OIL, NATURAL GAS, COAL BED METHANE OR LIMESTONE IS LEASED OR EXTRACTED.

(b) Payments derived from State system land.--All payments royalties derived from any lease entered into under section 4 FISCAL YEAR 2012-2013 AND EACH FISCAL YEAR THEREAFTER shall allocated as follows:

(1) ~~Except as provided under paragraph (3), 40% FIFTY~~ PERCENT shall be retained by the university where the coal, oil, natural gas, coal bed methane or limestone is leased or extracted and shall be used by the university for deferred maintenance projects or energy efficiency or energy cost saving improvements.

(2) ~~Except as provided under paragraph (3), 60% THIRTY-FIVE PERCENT~~ shall be allocated to the State System of Higher

1 Education for distribution among those universities where no  
2 coal, oil, natural gas, coal bed methane or limestone have  
3 been leased or extracted. The distribution formula shall be  
4 determined by the Board of Governors of the State System of  
5 Higher Education. Funds distributed under this paragraph  
6 shall only be used for deferred maintenance or energy  
7 efficiency or energy cost saving improvements.

8 (3) Fifteen percent of the funds distributed under  
9 paragraphs (1) and (2) shall be used exclusively for tuition  
10 reduction SHALL BE ALLOCATED TO THE SYSTEM FOR DISTRIBUTION  
11 TO ALL 14 UNIVERSITIES FOR THE WAIVER OF TUITION FEES AND  
12 OTHER CHARGES AND FEES PURSUANT TO POLICIES ISSUED UNDER  
13 SECTION 2006-A(A) (13) OF THE ACT OF MARCH 10, 1949 (P.L.30,  
14 NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949.

15 (c) Executively authorized augmentations.--The costs  
16 incurred by the department or the Department of Conservation and  
17 Natural Resources in advertising and contracting, leasing or  
18 conveying the resources, including the fees of any survey,  
19 appraisal or report, shall be deducted from payments or  
20 royalties and that amount shall be an executively authorized  
21 augmentation to the appropriation to the department or the  
22 Department of Conservation and Natural Resources.

23 Section 6. Condition relating to surplus property.

24 Notwithstanding the provisions of section 2405-A(6) of the  
25 act of April 9, 1929 (P.L.177, No.175), known as The  
26 Administrative Code of 1929, the department may convey all coal,  
27 oil, natural gas, coal bed methane and limestone rights to the  
28 purchaser of surplus Commonwealth real property along with the  
29 conveyance of the surplus real property when done so in  
30 accordance with this act.

1 Section 7. Effective date.

2 This act shall take effect immediately.